

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

ERICK GARCIA,

Plaintiff,

v.

TODD A. RICHARDS, et al.,

Defendants.

No. 2:18-cv-00041-RLW

MEMORANDUM AND ORDER

This matter is before the Court on a document filed by plaintiff Erick Garcia that the Court has construed as a motion to appoint counsel and a motion for an extension of time to file a second amended complaint. (Docket No. 11). Plaintiff also requests that the Court send him a copy of his medical records, which he states the Court has on file. For the reasons discussed below, the Court will deny plaintiff's motion for appointment of counsel, grant him an extension of time in which to file his second amended complaint, and direct the Clerk of Court to send him a copy of his complaint, along with the attachments.

First, as to plaintiff's motion for appointment of counsel, the Court finds that appointment is not warranted at this point in time. In a civil case, a pro se litigant has no statutory or constitutional right to appointed counsel. *Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998). Rather, a district court may appoint counsel in a civil case if the court is "convinced that an indigent plaintiff has stated a non-frivolous claim...and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel." *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). Plaintiff has been ordered to file a second amended complaint, which he has not yet done. As such, the Court cannot determine whether he has stated

a non-frivolous claim. The Court will entertain further motions for appointment of counsel as the case progresses.

Next, as to plaintiff's request for an extension of time to file a second amended complaint, plaintiff states that he needs additional time in which to obtain counsel to properly file his claim. He also suggests that he requires the medical records that he earlier filed as attachments to his complaint. Good cause being shown, plaintiff will be granted **thirty (30) days** from the date of this order in which to file his second amended complaint pursuant to the instructions set forth in the Court's order of March 25, 2019. (Docket No. 10).

Finally, with regards to plaintiff's request that the Court send him a copy of his medical records, the Court will direct the Clerk of Court to send to plaintiff a copy of his original complaint (Docket No. 1), including all attachments attached to said complaint.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel (Docket No. 11) is **DENIED at this time**.

IT IS FURTHER ORDERED that plaintiff's motion for an extension of time to file his second amended complaint is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall file his second amended complaint within **thirty (30) days** of the date of this order.

Plaintiff's failure to timely comply with this order will result in the dismissal of this case without prejudice and without further notice.

IT IS FURTHER ORDERED that the Clerk of Court shall send to plaintiff a copy of his original complaint (Docket No. 1), including all attachments.

IT IS FURTHER ORDERED that the Clerk of Court shall send to plaintiff a copy of the Court's order of March 25, 2019. (Docket No. 10).

IT IS FURTHER ORDERED that upon the filing of the second amended complaint, the Court will review it pursuant to 28 U.S.C. § 1915.

Dated this 24th day of April, 2019.

A handwritten signature in cursive script, reading "Ronnie L. White". The signature is written in black ink and is positioned above a horizontal line.

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE